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The DCI read and approved the proposal in the
attached paper on 12 February 1962. LRHouston

OGC 62-0274

12 February 1962

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Board of Inquiry for Francis Gary Powers
and Terms of Reference

1. The Department of Justice thinks well of having the Francis Gary Powers' Board of Inquiry chaired by a retired Federal judge. There is a possible question that any claim of Executive privilege might thereby be weakened, but under the circumstances I do not consider this point serious. We will want to release such results as do not involve security matters, and the latter will be protected by the classification not Executive privilege.

2. My first choice for Chairman, not only because of reputation but also because of comparative youth and availability, is Judge E. Barrett Prettyman, recently retired from the U. S. Court of Appeals for the District of Columbia. Justice agrees he is well qualified. My second choice would be Judge Harold R. Medina (Ret.), who has an outstanding reputation but is somewhat older and lives in New York. If neither one could serve, there are others well qualified we could approach. As members of the Board I recommend Lt. General Harold Roe Bull, U. S. A. (Ret.), and Mr. John A. Bross. General Bull served several years with the Office of National Estimates and is now a cleared WOC consultant to the Office of National Estimates, knows the over-all intelligence structure of Government well, and has a reputation for ability and good judgment. Mr. Bross is a lawyer, knows the DD/P side of the Agency intimately, has held highly responsible

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25X1 jobs in which he has demonstrated ability and judgment, and has not been in the line of command or intimately connected with the U-2 project. I do not recommend an Air Force officer on the Board in view of the efforts to disassociate the Air Force from the U-2 project, but I suggest we invite the Air Force to have an observer or technical adviser present at all sessions so they can be completely informed in the matter. In the alternative, we could offer the Air Force a copy of the proceedings. The Board should have a staff with a Secretary of the caliber of Mr. Elder or [] and supporting memberships from DPD, CI Staff, and Security. The General Counsel will be Counsel of the Board. Transcripts will be taken of all Board proceedings.

3. The terms of reference of the Board would be to determine whether in the light of all the circumstances Powers, having been dispatched on a mission which ended with him in the custody of the Soviet authorities, acted in accordance with the terms of his employment, and instructions and briefings pursuant thereto, and his obligations as an American citizen from the time he started the mission until his release. The Board will not be concerned with the U-2 project as a whole, the political aspects thereof, or the timing of the particular flight which resulted in Powers' capture except insofar as Powers might have knowledge of classified information in these fields. It would be necessary for the Board to come to a conclusion as to whether he was able to keep from divulging such classified information or whether he revealed such information to the Soviets without resisting sufficiently to meet with his obligations. The Board will make findings of fact and would forward its conclusions to the Director of Central Intelligence together with such recommendations as it might see fit to make.

4. If you approve the composition of the Board as outlined above, I should approach Judge Prettyman at the earliest opportunity.

LAWRENCE R. HOUSTON
General Counsel